

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Document #

43

U.S.C.A. #

U.S.D.C. # 01-cv-8444

JUDGE:

SAS

DATE:

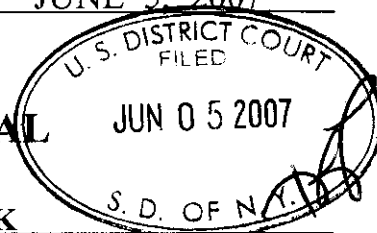
JUNE 5, 2007

Abney

-v-

NYS CORRECTIONS

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME):

THOMAS R. PISARCZYK

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for the Second Circuit on the 5TH Day of June, 2007.

DATE: JUNE 5, 2007

Abney

NYC Corrections

Deputy Clerk

APPEAL, CASREF, REOPEN

U.S. District Court
United States District Court for the Southern District of New York (Foley Square - Suspense)
CIVIL DOCKET FOR CASE #: 2:01-cv-08444-SAS
Internal Use Only

Abney v. N.Y.S. Correctional, et al
Assigned to: Judge Shira A. Scheindlin
Referred to: Magistrate Judge Frank Maas (Settlement)
Demand: \$3,000,000
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 09/07/2001
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Date Filed	#	Docket Text
09/07/2001	1	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS by Horace Abney. (db) (Entered: 09/21/2001)
09/07/2001	2	COMPLAINT filed. (db) (Entered: 09/21/2001)
09/07/2001		Magistrate Judge Frank Maas is so designated. (db) (Entered: 09/21/2001)
09/07/2001	3	60 DAYS ORDER: I grant plaintiff's request to proceed in forma pauperis and direct the Clerk of Court to assign a docket number to this complaint. I further direct plaintiff to submit an amended complaint within 60 days of the instant order as further detailed in the order. The plaintiff is hereby directed to file an amended complaint. Should plaintiff decide to file an amended complaint, it must be submitted to this Court's Pro Se Office within 60 days of the date of this order, be captioned as an "Amended Complaint" and bear the same docket number as this order. No summons shall be issued at this time and all further proceedings shall be stayed for sixty days or until plaintiff has complied with this order. If plaintiff fails to comply with this order within the time allowed, the complaint will be dismissed. Once submitted, the amended complaint shall be reviewed for compliance with this order and substantive sufficiency and then, if the case shall be reassigned at random to a district judge in accordance with the procedures of the Clerk's Office. I certify pursuant to 28 U.S.C. 1915(a)(3) that any appeal from this order would not be taken in good faith. SO ORDERED (signed by Chief Judge Michael B. Mukasey) Copies mailed. (db) (Entered: 09/21/2001)
10/10/2001	4	NOTICE of address change filed by Horace Abney . (yv) (Entered: 10/10/2001)
11/14/2001	5	AMENDED COMPLAINT by Horace Abney (Answer due 11/27/01 for John McGinnis) amending [2-1] complaint against Mario Malvarosa, Paul Wilson, Ann Arckert, Mike Napapa, John Doe, and Jane Doe. Jury trial demanded. (kw) (Entered: 11/16/2001)
11/27/2001	7	SECOND AMENDED COMPLAINT by Horace Abney amending [5-1] amended complaint against Michael Di Pompo. (kkc) Modified on 06/06/2002 (Entered: 12/11/2001)
11/29/2001	6	Notice of Case Reassignment to Judge Shira A. Scheindlin . Copy of notice and judge's rules mailed to Attorney(s) of record: Horace Abney . (dle) (Entered: 12/06/2001)
12/05/2001		SUMMONS(ES) issued on 11/30/01. (kkc) (Entered: 12/07/2001)
01/03/2002	8	ORDER, the plttf is directed to have the summons and complaint promptly served on the defts by filing out and forwarding to the U.S. Marshal the forms provided to plttf by the Pro Se Office. If service is not made upon the defts or plttf fails to show good cause why such service has not been effected by 4/1/02, the Court will dismiss the action. (signed by Judge Shira A. Scheindlin); Copies mailed. (sac) (Entered: 01/04/2002)
02/21/2002	9	U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Mario Malvarosa by personal service on 1/23/02 . Answer due on 2/12/02 for Mario Malvarosa . (db) (Entered: 02/22/2002)
02/21/2002	10	U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Ann Arckert by personal service on 1/23/02 . Answer due on 2/12/02 for Ann Arckert . (db) (Entered: 02/22/2002)
02/25/2002	11	MARSHAL'S RETURN OF SERVICE of Summons and Complaint executed as to John McGinnis by personal service on. Answer due on 2/6/02 for John McGinnis. Answer to 1st of Interrogatories Due on 4/17/02 for John McGinnis. Answer to 2nd Set of Interrogatories Due on 6/17/02 for John McGinnis. (jco) (Entered: 03/01/2002)
02/27/2002	12	U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Paul Wilson by mail on 2/5/02. Answer due on 2/25/02 for Paul Wilson. (kkc) (Entered: 03/01/2002)
03/04/2002	13	Memo-Endorsement on letter addressed to Judge Scheindlin from Steven N. Schulman, dated 2/27/02, reset answer due for 6/3/02 for Jane Doe, for John Doe, for Mike Napapa, for Ann Arckert, for Paul Wilson, for Mario Malvarosa, for John McGinnis, for N.Y.S. Medical Dept., for N.Y.S. Correctional . (signed by Judge Shira A. Scheindlin); Copies mailed. (cd) (Entered: 03/05/2002)
03/11/2002	14	NOTICE OF PRETRIAL CONFERENCE IN PRO SE ACTION: counsel are directed to appear for a pretrial conference at 4:30 on 4/2/02 in courtroom 12C, 500 Pearl Street, New York, New York, N.Y. (signed by Judge Shira A. Scheindlin) (kw) (Entered: 03/15/2002)
03/19/2002	15	APPLICATION by Horace Abney for the Court to request counsel . (sac) (Entered: 03/22/2002)
03/22/2002	16	U.S. MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE of Summons and Complaint executed as to Michael Di Pompo by personal service on 3/18/02. (kkc) (Entered: 03/26/2002)
03/29/2002	17	PRO SE MEMORANDUM dated 3/26/02 re: CHANGE OF ADDRESS for Horace Abney . New Address: Woodbourne Corr. Fac., 99 Prison Rd., P.O. Box 1000, Woodbourne, NY 12788-1000 . (yv) (Entered: 03/29/2002)
03/29/2002	18	Memo-Endorsement on letter addressed to Judge Scheindlin from Steven N. Schulman, dated 3/26/02; counsel writes to request an adjournment of the 4/2/02 pre-trial conference. Defendants' request for an adjournment of the conference is granted; the pretrial conference is rescheduled for 4/10/02 at 4:30 p.m. (the request for 30 days is denied) . (signed by Judge Shira A. Scheindlin); Copies mailed. (kkc) (Entered: 04/03/2002)

04/04/2002	22	NOTICE OF MOTION (FILED ON SERVICE DATE) by John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, Mike Napapa, John Doe, Jane Doe for an order pursuant to Rule 12(b)(6) of the FRCP dismissing the complaint on the grounds that plaintiff failed to exhaust all available administrative remedies as further set forth in said motion. Affidavits of Thomas G. Eagen and Steven N. Shulman in support of motion attached. No Return Date indicated. (db) (Entered: 06/04/2002)
04/10/2002		PRETRIAL CONFERENCE held before Judge Shira A. Scheindlin. (db) (Entered: 04/12/2002)
04/11/2002	19	Memorandum to Docket Clerk: pre-trial conference held before Judge Scheindlin on 4/10/02. (db) (Entered: 04/12/2002)
04/11/2002	20	ORDER, plaintiff to file opposition papers to defendants' motion to dismiss within 30 days of the date of this order. If plaintiff submits opposition papers, defendants' reply is due two weeks thereafter. If plaintiff fails to comply with this Order, the Court will decide the motion solely on the papers submitted by defendant. (signed by Judge Shira A. Scheindlin); Copies mailed. (kw) (Entered: 04/15/2002)
04/30/2002	25	NOTICE OF MOTION by Michael Di Pompo; for an Order pursuant to 42 U.S.C. Section 1997e(a); Rules 12(b)(1) and 12(b)(6) of the F.R.C.P., as well as 42 U.S.C. Section 1983, which dismisses plaintiff's complaint against defendant Michael Di Pompo on the grounds that this Court lacks jurisdiction over defendant Michael Di Pompo and that plaintiff failed to exhaust available administrative remedies. Return Date 6/3/02. (jco) (Entered: 06/06/2002)
05/06/2002	21	RESPONSE by Horace Abney Re: the dfts memorandum of law. (bai) (Entered: 05/23/2002)
05/29/2002	23	MEMORANDUM OF LAW by John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, Mike Napapa, John Doe, Jane Doe in support of [22-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP dismissing the complaint on the grounds that plaintiff failed to exhaust all available administrative remedies as further set forth in said motion. (db) (Entered: 06/04/2002)
05/29/2002	24	REPLY MEMORANDUM by John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, Mike Napapa, John Doe, Jane Doe in support of [22-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP dismissing the complaint on the grounds that plaintiff failed to exhaust all available administrative remedies as further set forth in said motion (db) (Entered: 06/04/2002)
05/31/2002	26	MEMORANDUM OF LAW by Michael Di Pompo in support of [25-1] motion for an Order pursuant to 42 U.S.C. Section 1997e(a); Rules 12(b)(1) and 12(b)(6) of the F.R.C.P., as well as 42 U.S.C. Section 1983, which dismisses plaintiff's complaint against defendant Michael Di Pompo on the grounds that this Court lacks jurisdiction over defendant Michael Di Pompo and that plaintiff failed to exhaust available administrative remedies. (jco) (Entered: 06/06/2002)
05/31/2002	27	REPLY MEMORANDUM by Michael Di Pompo in further support of [25-1] motion for an Order pursuant to 42 U.S.C. Section 1997e(a); Rules 12(b)(1) and 12(b)(6) of the F.R.C.P., as well as 42 U.S.C. Section 1983, which dismisses plaintiff's complaint against defendant Michael Di Pompo on the grounds that this Court lacks jurisdiction over defendant Michael Di Pompo and that plaintiff failed to exhaust available administrative remedies. (jco) (Entered: 06/06/2002)
07/03/2002	28	MEMORANDUM OPINION AND ORDER #87131, granting [25-1] motion for an Order pursuant to 42 U.S.C. Section 1997e(a); Rules 12(b)(1) and 12(b)(6) of the F.R.C.P., as well as 42 U.S.C. Section 1983, which dismisses plaintiff's complaint against defendant Michael Di Pompo on the grounds that this Court lacks jurisdiction over defendant Michael Di Pompo and that plaintiff failed to exhaust available administrative remedies, granting [22-1] motion for an order pursuant to Rule 12(b)(6) of the FRCP dismissing the complaint on the grounds that plaintiff failed to exhaust all available administrative remedies as further set forth in said motion. For the foregoing reasons, plaintiff's Complaint against the DOCS defendants and defendant Di Pompo is dismissed for failure to exhaust available administrative remedies; The Clerk of the Court is directed to close this case. (signed by Judge Shira A. Scheindlin); Copies mailed. (tp) (Entered: 07/10/2002)
07/12/2002	29	JUDGMENT, that for the reasons stated in the Court's Memorandum Opinion (87131) and Order dated 7/2/02, defendant's motion to dismiss is granted and the complaint is dismissed; accordingly, this case is closed. (signed by James M. Parkison, Clerk of Court); Mailed copies and notice of right to appeal. Entered On Docket: 7/15/02. (tp) (Entered: 07/15/2002)
07/12/2002		Case closed. (tp) (Entered: 07/15/2002)
08/01/2002	30	DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS by Horace Abney. (sac) (Entered: 08/09/2002)
08/01/2002	31	NOTICE OF APPEAL by Horace Abney from [29-1] judgment order. Copies of notice of appeal mailed to Attorney(s) of Record: Attorney Generals Office for the State of New York. (I.F.P. Granted 8/21/02). (dt) (Entered: 08/29/2002)
08/21/2002		MEMO-ENDORSEMENT Application to Proceed In Forma Pauperis, docmt #30; The application is hereby granted. Let the applicant proceed without prepayment of cost or fees or the necessity of giving security therefore; (signed by Judge Shira A. Scheindlin); Copies mailed. (dj) Modified on 08/30/2002 (Entered: 08/28/2002)
08/29/2002		Notice of appeal and certified copy of docket to USCA: [31-1] appeal by Horace Abney; Copy of notice of appeal sent to District Judge. (dt) (Entered: 08/29/2002)
08/29/2002	32	Notice that the record on appeal has been certified and transmitted to the U.S. Court of Appeals: [31-1] appeal by Horace Abney. (dt) (Entered: 08/29/2002)
08/29/2002		by Horace Abney, Indexed record on appeal files sent to the U.S.C.A. (dt) (Entered: 08/29/2002)
02/21/2003	33	MANDATE OF USCA (certified copy) Re: [31-1] appeal by Horace Abney. Appellant, pro se, moves for appointment of counsel and in forma pauperis status in his appeal from the district court judgment dismissing his 42USC 1983 complaint. ORDERED that the motion for appointment of counsel is GRANTED. In addition to any other arguments counsel wishes to raise, the following issue should be addressed as indicated. Counsel will be appointed from the pro bono panel at which time a briefing schedule will be issued. Because appellant was previously granted in forma pauperis status in this appeal, his present motion for in forma pauperis status is denied as moot. CERTIFIED 2/13/03, 02-0241. ROSEANN B. MACKECHNIE, CLERK, USCA. (pr) (Entered: 02/21/2003)
01/26/2004		USCA Appeal Fees received \$ 105.00 receipt number E495881 on 1/12/04 re: [31] Notice of Appeal filed by Horace Abney. (dt,) (Entered: 01/26/2004)
09/15/2004	34	MANDATE OF USCA (Certified Copy) as to [31] Notice of Appeal filed by Horace Abney USCA Case Number 02-0241. Ordered, Adjudged and Decreed that the judgment of the District Court is VACATED and REMANDED for further proceedings in accordance with the opinion of this court. MACKECHNIE, Clerk USCA. Issued As Mandate: 9/8/04. (pr,) (Entered: 09/15/2004)
09/15/2004		Transmission of USCA Mandate/Order to the District Judge re: [34] USCA Mandate., (pr,) (Entered: 09/15/2004)
11/22/2004	36	SCHEDULING ORDER: discovery to be completed by 5/31/05. (See document for further related discovery schedule). Parties will submit a pre-trial order by 7/29/05 as set forth in this document; final pre-trial conference set for 3/31/05 at 4:30 p.m. Anticipated length of trial: 3 days, jury trial. (Signed by Judge Shira A. Scheindlin on 11/19/04) (kw,) (Entered: 11/29/2004)

11/24/2004	35	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement- Early March would be best. Referred to Magistrate Judge Frank Maas. (Signed by Judge Shira A. Scheindlin on 11/19/2004) (jsa,) (Entered: 11/24/2004)
11/29/2004	37	MOTION (FILED ON SERVICE DATE) to Appoint Counsel. Declaration of Horace Abney in support attached. Document filed by Horace Abney. (yv,) Modified on 12/3/2004 (yv,). (Entered: 12/03/2004)
12/08/2004	38	TRANSCRIPT of proceedings held on 11/19/04 before Judge Shira A. Scheindlin.(Gonzalez, Jose) (Entered: 12/08/2004)
12/10/2004	39	PRO SE MEMORANDUM dated 12/2/04 re: CHANGE OF ADDRESS for Horace Abney. New Address: 99-A-2797, Wallkill Correctional Facility, Route 208, Box G, Wallkill, New York, 12589-0286. (db,) (Entered: 12/24/2004)
12/27/2004	40	ORDER granting [37] Motion to Appoint Counsel . (Signed by Judge Shira A. Scheindlin on 12/22/2004) (jp,) (Entered: 12/28/2004)
01/07/2005	41	ANSWER to Second Amended Complaint, CROSSCLAIM against Jane Doe, John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, John Doe. Document filed by Michael Di Pompo.(jeh,) (Entered: 01/10/2005)
01/07/2005		CROSSCLAIM against Jane Doe, John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, John Doe.Document filed by Michael Di Pompo.(jco,) (Entered: 11/03/2005)
01/11/2005	42	ANSWER to Second Amended Complaint with JURY DEMAND. Document filed by New York State Dept. of Correctional Services.(jmi,) (Entered: 01/13/2005)
02/09/2005	43	SCHEDULING ORDER: Settlement Conference set for 3/29/2005 10:30 AM before Magistrate Judge Frank Maas.Counsel for the New York State defendants shall arrange for the plaintiff's appearance via telephone and shall initiate the call using the main number for Judge Maas' chambers which is (212)805-6727. Settlement procedures are attached. (Signed by Judge Frank Maas on 2/8/2005) copies mailed by chambers.(jsa,) (Entered: 02/10/2005)
03/22/2005		Appeal Record Returned. Indexed record on Appeal Files for [31] Notice of Appeal filed by Horace Abney, USCA Case Number 02-0241, returned from the U.S. Court of Appeals. (tp,) (Entered: 03/28/2005)
03/25/2005	44	ENDORSED LETTER addressed to Judge Frank Maas from Rose M. Weber dated 3/24/05 re: Counsel writes to request a stay of the action for ninety days; and the settlement conference be adjourned sine die. If Ms. Weber enters a notice of appearance by 3/28, the settlement conf. will be adjourned; if not, it will proceed as previously scheduled. (Signed by Judge Frank Maas on 3/24/05) (jco,) (Entered: 03/28/2005)
03/28/2005	45	ORDER: the Clerk of the Court is directed to place this action on the Suspense Docket until 6/15/05. (Signed by Judge Shira A. Scheindlin on 3/25/05) (db,) (Entered: 03/30/2005)
03/28/2005	46	ENDORSED LETTER addressed to Judge Scheindlin from Rose M. Weber dated 3/24/2005 re: This case is hereby stayed for a sixty-day period. A conference is scheduled for 6/15/2005 at 4:30pm. (Signed by Judge Shira A. Scheindlin on 3/24/2005) (jsa,) (Entered: 03/31/2005)
03/29/2005		Set/Reset Hearings: Pretrial Conference set for 6/15/2005 04:30 PM before Judge Shira A. Scheindlin. (jsa,) (Entered: 03/31/2005)
03/30/2005	47	NOTICE of Appearance by Rose Minna Weber on behalf of Horace Abney. (jco,) (Entered: 04/06/2005)
06/17/2005	48	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement/ Late September would be best. Referred to Magistrate Judge Frank Maas. (Signed by Judge Shira A. Scheindlin on 6/14/2005) (jsa,) (Entered: 06/20/2005)
06/17/2005	49	SCHEDULING ORDER: Discovery due by 12/30/2005. Final Pretrial Conference set for 11/21/2005 04:30 PM before Judge Shira A. Scheindlin. Pretrial Order due by 2/13/2006. (Signed by Judge Shira A. Scheindlin on 6/14/05) (jco,) (Entered: 06/20/2005)
06/28/2005	50	ORDER; a settlement conference shall be held on September 27, 2005 at 11 a.m. in Courtroom 11C, 500 Pearl Street, NY, NY. (Signed by Judge Frank Maas on 6/27/05); copies forwarded by Chambers. (dj,) (Entered: 06/29/2005)
06/28/2005		Set Deadlines/Hearings: Settlement Conference set for 9/27/2005 11:00 AM before Magistrate Judge Frank Maas. (dj,) (Entered: 06/29/2005)
09/28/2005	51	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Rose Weber dated 9/26/05 re: counsel for parties request that the discovery deadline in this matter be extended by ninety days until 1/30/06. The settlement conf. is adjourned to 1/4/06 at 10 am. Counsel are reminded of the settlement procedures in advance of the conference. (Signed by Judge Frank Maas on 9/27/05) (dle,) (Entered: 09/29/2005)
09/28/2005		Set/Reset Hearings: Settlement Conference set for 1/4/2006 10:00 AM before Magistrate Judge Frank Maas. (dle,) (Entered: 09/29/2005)
09/29/2005	52	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 9/26/05 re: Counsel writes to request that the discovery deadline be extended by ninety days. Request Granted. But the conference scheduled for Nov. 21 will go forward as scheduled. The discovery cut-off is extended to 1/30/06. So Ordered. (Signed by Judge Shira A. Scheindlin on 9/27/05) (jco,) (Entered: 09/29/2005)
11/02/2005	53	ANSWER to Crossclaim. Document filed by John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert.(jco,) (Entered: 11/03/2005)
12/16/2005	54	ENDORSED LETTER addressed to Judge Frank Maas from Rose M. Weber dated 12/13/05. ENDORSEMENT: The conference is adjourned to 2/17/06 at 2:00 p.m.. (Signed by Judge Frank Maas on 12/14/05) (kco,) (Entered: 12/16/2005)
02/15/2006	55	ENDORSED LETTER addressed to Judge Maas from Rose M. Weber dated 2/13/06: the 2/17 conf is adjourned to 3/15 at 10 am. (Signed by Judge Frank Maas on 2/14/06) (cd,) (Entered: 02/15/2006)
03/14/2006	56	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 3/10/06 re: a request that the discovery deadline be extended 90 days. ENDORSEMENT: The parties request is hereby granted. The discovery deadline is hereby extended to 6/20/2006. The final pretrial conference will be held on 6/30/2006 at 4:30 p.m.. (Signed by Judge Shira A. Scheindlin on 3/13/06) (kco,) (Entered: 03/14/2006)
03/15/2006	57	ENDORSED LETTER addressed to Judge Frank Maas from Rose M. Weber dated 3/14/06 re: Counsel writes to request that the Court adjourn the settlement conference. The cnf. is adjourned to 5/25 at 5 pm. (Signed by Judge Frank Maas on 3/14/06) (jco,) (Entered: 03/16/2006)

03/15/2006		Set Deadlines/Hearings: Settlement Conference set for 5/25/2006 05:00 PM before Magistrate Judge Frank Maas. (jco,) (Entered: 03/16/2006)
05/12/2006	58	STIPULATION AND ORDER that plaintiff Horace Abney, 99-A-2797 shall be produced for deposition and physical examination according to the stipulation and agreement set forth above. (Signed by Judge Shira A. Scheindlin on 5/10/06) (copy forwarded to the US Marshal)(cd,) (Entered: 05/15/2006)
05/23/2006	59	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Steven Schulman dated 5/12/06 re: counsel for dfts request an adjournment of the settlement conference. The conf. is adjourned to 6/20/06 at 5:00 p.m. in courtroom 11C. (Signed by Judge Frank Maas on 5/12/06) (dle,) (Entered: 05/23/2006)
05/23/2006		Set/Reset Hearings: Settlement Conference set for 6/20/2006 05:00 PM before Magistrate Judge Frank Maas. (dle,) (Entered: 05/23/2006)
06/16/2006	60	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 6/15/2006 re: a request that the discovery deadline be extended by thirty days. ENDORSEMENT: The parties' request is hereby granted. The discovery deadline is extended until 7/20/2006. The 6/30 conference is adjourned until Monday, 7/31/2006 at 4:30 p.m. (Signed by Judge Shira A. Scheindlin on 6/15/06) (kco,) (Entered: 06/16/2006)
06/22/2006	61	FILING ERROR - ELECTRONIC FILING FOR NON-ECF CASE - NOTICE OF APPEARANCE by Sharon Schweidel on behalf of Michael Di Pompo, Michael Di Pompo, Michael Di Pompo, Michael Di Pompo, Michael Di Pompo (Schweidel, Sharon) Modified on 6/23/2006 (gf,). (Entered: 06/22/2006)
06/23/2006		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF CASE ERROR. Note to Attorney Sharon Schweidel to MANUALLY RE-FILE Document Notice of Appearance, Document No. 61. This case is not ECF. (gf,) (Entered: 06/23/2006)
06/23/2006	62	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Rose M. Weber dated 6/20/2006 re: the parties are requesting that the settlement conference be adjourned until 8/3/2006 at 2:00 p.m. ENDORSEMENT: So Ordered. (Signed by Magistrate Judge Frank Maas on 6/20/2006) (lb,) (Entered: 06/23/2006)
06/26/2006	63	NOTICE OF APPEARANCE by Sharon Schweidel on behalf of Michael Di Pompo, Michael Di Pompo, Michael Di Pompo, Michael Di Pompo, Michael Di Pompo (db,) (Entered: 06/27/2006)
07/18/2006	64	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 7/17/2006 re: respectfully requesting that the conference be adjourned to the afternoon of either 8/14 or 8/15. ENDORSEMENT: The 7/31/2006 final pretrial conference is rescheduled for Friday, 7/28/2006 at 2:30 p.m. So Ordered. (Signed by Judge Shira A. Scheindlin on 7/17/2006) (lb,) (Entered: 07/18/2006)
08/02/2006	65	SCHEDULING ORDER: Discovery due by 8/31/2006. The parties appear before the Court for a conference at 4:30 p.m., 8/31/06. (Signed by Judge Shira A. Scheindlin on 8/1/06) (jco,) (Entered: 08/03/2006)
08/04/2006	66	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Steven N. Schulman dated 8/1/2006 re: requesting a 1-month adjournment of the settlement conference currently scheduled for 8/3/2006. ENDORSEMENT: The conf. is adjourned to 9/14 at 11 a.m. (Signed by Magistrate Judge Frank Maas on 8/1/2006) (lb,) (Entered: 08/07/2006)
09/11/2006	67	TRANSCRIPT of proceedings held on 08/31/06 before Judge Shira A. Scheindlin. (es,) (Entered: 09/11/2006)
09/14/2006		Minute Entry for proceedings held before Judge Frank Maas : Settlement Conference held on 9/14/2006. Parties are unable to reach a settlement - referral closed for Mag. purposes. (jco,) (Entered: 09/20/2006)
10/06/2006	68	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Steven N. Schulman dated 10/3/2006 re: a request for the following updated schedule: Defts' motions due by 10/11/2006, plt's response due by 11/8/2006, and defts' reply due by 11/22/2006. ENDORSEMENT: Request granted. SO ORDERED. (Signed by Judge Shira A. Scheindlin on 10/5/06) (kco,) (Entered: 10/11/2006)
10/06/2006		Set Deadlines: Motions due by 10/11/2006. Responses due by 11/8/2006. Replies due by 11/22/2006. (kco,) (Entered: 10/11/2006)
10/11/2006	69	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Steven N. Schulman dated 10/10/06. ENDORSEMENT: Defendants' request is hereby granted. Defendants may file with their summary Judgment motion: (1) an 11.5 page affidavit from Dr. Malvurosa (2) an exhibit of 65 pages of plaintiff's medical records: and (3)an exhibit of 30 pages of deposition excerpts. (Signed by Judge Shira A. Scheindlin on 10/10/06) (js,) (Entered: 10/13/2006)
10/11/2006	70	RULE 56.1 STATEMENT. Document filed by Michael Di Pompo. (cd,) (Entered: 10/16/2006)
10/11/2006	71	MOTION for Summary Judgment purs to FRCP 56. Document filed by Michael Di Pompo. (cd,) (Entered: 10/16/2006)
10/11/2006	72	MEMORANDUM OF LAW in Support re: [71] MOTION for Summary Judgment.. Document filed by Michael Di Pompo. (cd,) (Entered: 10/16/2006)
10/17/2006	73	MOTION for Summary Judgment. Document filed by Jane Doe, Michael Di Pompo, John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, John Doe. (jco,) (Entered: 10/20/2006)
10/17/2006	74	MEMORANDUM OF LAW in Support re: [73] MOTION for Summary Judgment. Document filed by Jane Doe, Michael Di Pompo, John McGinnis, Mario Malvarosa, Paul Wilson, Ann Arckert, John Doe. (jco,) (Entered: 10/20/2006)
10/17/2006	75	RULE 56.1 STATEMENT. Document filed by John McGinnis, Mario Malvarosa, Paul Wilson, Ann Eckert (incorrectly call Arckert). (jco,) (Entered: 10/23/2006)
11/09/2006	76	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 11/6/06 re: a request by plaintiff's counsel with the consent of defendants for an extension of the deadline until 11/15/2006 to file opposition papers. ENDORSEMENT: Plaintiff's request is hereby granted. Plaintiff's opposition is now due on or by 11/15/2006. Defendant's reply is now due on or by 12/6/2006. SO ORDERED. (Signed by Judge Shira A. Scheindlin on 11/7/06) (kco,) (Entered: 11/13/2006)
11/09/2006		Set Deadlines: Responses due by 11/15/2006. Replies due by 12/6/2006. (kco,) (Entered: 11/13/2006)
11/15/2006	77	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Rose M. Weber dated 11/13/2006 re: to the deadline for opposition papers be extended until December 15, 2006 and the deadline for reply papers be extended until January 5, 2007(in light of the intervening holidays).Responses due by 12/15/2006 Replies due by 1/5/2006. ENDORSEMENT: This is the final adjournment the Court will grant to plaintiff. The motion was made on October 11,2006. Extending the response date as requested, to December 15, 2006 means that the motion will be nearly 90 days by the time it is fully submitted. This is simply unfair to the Court which must decide all motions within 180 days. In addition this is a five year old case. If opposition is not dilled by December 15, 2006 it will not be considered. So Ordered. (Signed by Judge Shira A. Scheindlin on 11/14/2006) (jmi,)

		(Entered: 11/16/2006)
12/15/2006	✓ 78	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - MEMORANDUM OF LAW in Opposition re: [71] MOTION for Summary Judgment, [73] MOTION for Summary Judgment. Document filed by Horace Abney. (Weber, Rose) Modified on 12/22/2006 (kg). (Entered: 12/15/2006)
12/15/2006	✓ 79	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - DECLARATION of Horace Abney in Opposition re: [71] MOTION for Summary Judgment, [73] MOTION for Summary Judgment. Document filed by Horace Abney. (Weber, Rose) Modified on 12/22/2006 (kg). (Entered: 12/15/2006)
12/15/2006	✓ 80	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - DECLARATION of Rose M. Weber in Opposition re: [71] MOTION for Summary Judgment, [73] MOTION for Summary Judgment. Document filed by Horace Abney. (Weber, Rose) Modified on 12/22/2006 (kg). (Entered: 12/15/2006)
12/15/2006	✓ 81	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - RESPONSE in Opposition re: [71] MOTION for Summary Judgment, [73] MOTION for Summary Judgment Opposition to DiPompo Rule 56.1 Statement. Document filed by Horace Abney. (Weber, Rose) Modified on 12/22/2006 (kg). (Entered: 12/15/2006)
12/15/2006	✓ 82	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - RESPONSE in Opposition re: [71] MOTION for Summary Judgment, [73] MOTION for Summary Judgment. Opposition to DOCS Rule 56.1 Statement. Document filed by Horace Abney. (Weber, Rose) Modified on 12/22/2006 (kg). (Entered: 12/15/2006)
12/19/2006	83	MEMORANDUM OF LAW in Opposition re: [73] MOTION for Summary Judgment.. Document filed by Horace Abney. (dj,) (Entered: 12/21/2006)
12/19/2006	84	DECLARATION of Rose M. Weber in Opposition re: [71] MOTION for Summary Judgment.. Document filed by Horace Abney. (dj,) (Entered: 12/21/2006)
12/19/2006	85	DECLARATION of Horace Abney. Document filed by Horace Abney. (dj,) (Entered: 12/21/2006)
12/19/2006	86	RESPONSE to Michael Dipompo's Local Rule 56.1 Statement. Document filed by Horace Abney. (dj,) (Entered: 12/21/2006)
12/19/2006	87	RESPONSE to DOCS Defendants' Local Rule 56.1 Statement. Document filed by Horace Abney. (dj,) (Entered: 12/21/2006)
01/04/2007	88	ENDORSED LETTER addressed to Judge Shira A. Scheindlin from Steven N. Schulman dated 12/29/2006 re: to the DOCS defendants respectfully request a one week extension, from January 5 to January 12, 2007, the time to serve a reply brief in further support of their motion for summary judgment in the above captioned matter. Replies due by 1/12/2007. ENDORSEMENT: Defendants' request for an extension is granted. Defendants shall serve their reply brief by January 12, 2007. SO ORDERED Signed by Judge Shira A. Scheindlin on 12/29/2006 (jmi,) (Entered: 01/05/2007)
01/12/2007	89	REPLY MEMORANDUM OF LAW in Support re: [73] MOTION for Summary Judgment. Document filed by Mario Malvarosa, Paul Wilson, Ann Arckert. (jco) (Entered: 01/19/2007)
01/24/2007	90	RESPONSE To DOCS Defts' Local Rule 56.1 Statement. Document filed by Horace Abney. (cd) (Entered: 01/29/2007)
03/16/2007	91	OPINION AND ORDER # 94417 forgoing reasons, summary judgment is granted in defendants' favor and this case is dismissed. The Clerk of the Court is directed to close these motions (Nos. 71 and 73 on the Docket Sheet) and this case. SO ORDERED. (Signed by Judge Shira A. Scheindlin on 3/16/2007) (jmi) (Entered: 03/20/2007)
04/17/2007	92	NOTICE OF APPEAL from [91] Memorandum & Opinion. Document filed by Horace Abney. Copies sent to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 05/29/2007)
04/17/2007		Appeal Remark as to [92] Notice of Appeal filed by Horace Abney. \$455.00 APPEAL FEE DUE. (tp) (Entered: 05/29/2007)
05/29/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [92] Notice of Appeal. (tp) (Entered: 05/29/2007)
05/29/2007		Transmission of Notice of Appeal to the District Judge re: [92] Notice of Appeal. (tp) (Entered: 05/29/2007)